

PILLSBURY WINTHROP SHAW PITTMAN LLP
MICHAEL CHIBIB, P.C. (admitted *pro hac vice*)
michael.chibib@pillsburylaw.com
401 Congress Ave., Suite 1700
Austin, TX 78701-3797
Telephone: 512.580.9609
Facsimile: 512.580.9601
PILLSBURY WINTHROP SHAW PITTMAN LLP

RICHARD H. ZAITLEN (SBN 63283)
richard.zaitlen@pillsburylaw.com
JEFFREY D. WEXLER (SBN 132256)
jeffrey.wexler@pillsburylaw.com
LORI LEVINE (SBN 299227)
lori.levine@pillsburylaw.com
725 South Figueroa Street, Suite 2800
Los Angeles, CA 90017-5406
Telephone: 213.488.7100
Facsimile: 213.629.1033

Attorneys for Plaintiff and Counterdefendant UM
CORPORATION and Counterdefendants GOLDEN
MEDIA GROUP, INC. and TIGA
ENTERTAINMENT COMPANY, LTD.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UM CORPORATION, a Japanese
corporation,

Plaintiff,

v.

TSUBURAYA PRODUCTIONS CO.,
LTD., a Japanese corporation,

Defendant.

Case No. 2:15-cv-03764-AB (AJWx)

**PLAINTIFF AND
COUNTERDEFENDANT UM
CORPORATION'S REQUEST FOR
JUDICIAL NOTICE IN SUPPORT
OF MOTION FOR JUDGMENT ON
THE PLEADINGS [Fed. R. Civ. P.
12(c)] OR, IN THE ALTERNATIVE,
FOR SUMMARY JUDGMENT [Fed.
R. Civ. P. 56]**

Date: September 22, 2016
Time: 10:00 a.m.
Location: Courtroom 4

Motion Hrng. Cutoff: January 9, 2017
Pretrial Conf.: March 27, 2017
Trial: April 18, 2017

AND RELATED CROSS-CLAIMS

1 TO ALL PARTIES, AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that plaintiff and counterdefendant UM
3 Corporation (“UMC”) respectfully requests the Court pursuant to Fed. R. Evid.
4 201 to take judicial notice of the following Judgments and Orders entered by courts
5 in Japan and China that are of relevance to UMC’s Motion for judgment on the
6 pleadings pursuant to Fed. R. Civ. P. 12(c) or, in the alternative, for summary
7 judgment pursuant to Fed. R. Civ. P. 56 as to certain affirmative defenses and
8 counterclaims asserted in the Answer, Affirmative Defenses and Counterclaims
9 [Dkt. 19] filed by defendant and counterclaimant Tsuburaya Productions Co., Ltd.
10 on September 11, 2015:¹

11 1. September 30, 2010 Judgment, Tokyo District Court,
12 Case No. 6194 (wa) 2009 (attached hereto as Exhibits A and B,
13 respectively, are true and correct copies of (a) the Judgment as
14 published in the official reporter and (b) a certified English translation
15 of the Judgment);

16 2. July 27, 2011 Judgment, Japanese Intellectual Property
17 High Court, Case No. 10080 (ne) 2010 (attached hereto as Exhibits C
18 and D, respectively, are true and correct copies of (a) the Judgment as
19 published in the official reporter and (b) a certified English translation
20 of the Judgment);

21 3. April 26, 2012 Order denying review, Japan Supreme
22 Court (attached hereto as Exhibits E and F, respectively, are true and
23

24 _____
25 ¹ Attached as Exhibit B to the Declaration of Jeffrey D. Wexler filed concurrently
26 herewith is an unofficial English translation of the November 14, 2007 Judgment
27 of the Supreme Court of Thailand, Case No. 7457/2550. UMC does not seek
28 judicial notice of the Thai Judgment because that Judgment has not been officially
published and therefore is not self-authenticating under Fed. R. Evid. 902(5).
Because the translation of the Thai Judgment has not been certified, UMC does not
vouch for the accuracy of the translation. UMC is providing the Court with the
unofficial translation for informational purposes.

1 correct copies of (a) the Order as issued by the Japanese Supreme
2 Court and (b) a certified English translation of the Order); and

3 4. September 29, 2013 Civil Ruling, Supreme People's
4 Court of the People's Republic of China, (2011) Min Shen Zi No. 259
5 (attached hereto as Exhibits G and H, respectively, are true and
6 correct copies of (a) the Judgment as published on the official Judicial
7 Opinions of China website (<http://wenshu.court.gov.cn/>) and (b) a
8 certified English translation of the Judgment).

9 Under Fed. R. Evid. 902, "[a] book, pamphlet, or other publication
10 purporting to be issued by a public authority" is "self-authenticating" and
11 "require[s] no extrinsic evidence of authenticity in order to be admitted." *Id.* See
12 Advisory Committee's Note to Fed. R. Evid. 902(5) (identifying "court reports" as
13 being among the "official publications" that are "most commonly encountered").
14 "Rule 902(5) applies to both domestic or foreign official publications since it is not
15 expressly limited to one or the other." 31 C. Wright & V. Gold, *Federal Practice*
16 *& Procedure: Evidence*, § 7139, at 239 (2000 & supp. 2016). The Judgments from
17 the Tokyo District Court and the Japanese Intellectual Property High Court
18 (Exhibits A and C hereto) were both published in Japanese case reporters, and
19 those Judgments are therefore self-authenticating under Rule 902(5).

20 "A government website . . . may also qualify as [a] 'government
21 publication[]'" for purposes of Rule 902(5). *Id.*, § 7139, supp. at 30-31 (footnote
22 omitted). See *Qiu Yun Chen v. Holder*, 715 F.3d 207, 212 (7th Cir. 2013)
23 (document posted on Chinese government website is presumptively authentic if
24 government sponsorship can be verified by visiting the website itself); *Williams v.*
25 *Long*, 585 F. Supp. 2d 679, 688-89 (D. Md. 2008) (webpage maintained on
26 government website constituted a self-authenticating publication issued by a public
27 authority). The Judgment of the Chinese Supreme Court (Exhibit G hereto) is
28 published on the official Judicial Opinions of China website

1 (<http://wenshu.court.gov.cn/>), and that Judgment is therefore self-authenticating
2 under Rule 902(5).

3 Because the April 12, 2012 Order of the Japanese Supreme Court denying
4 review is published neither in a reporter nor on a government website, that Order is
5 not self-authenticating pursuant to Rule 902(5). UMC may, however, satisfy the
6 authentication requirement by “produc[ing] evidence sufficient to support a finding
7 that the item is what the proponent claims it is.” Fed. R. Evid. 901. UMC
8 anticipates that TPC will not dispute the authenticity of that Order, or the fact that
9 the Japanese Supreme Court in fact denied review on April 12, 2012.

10 Pursuant to Fed. R. Evid. 201(b), the Court “may judicially notice a fact that
11 is not subject to reasonable dispute because it . . . can be accurately and readily
12 determined from sources whose accuracy cannot reasonably be questioned.” *Id.*
13 Courts “may take judicial notice of court filings and other matters of public
14 record.” *Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n. 6 (9th
15 Cir. 2006) (citing *Burbank-Glendale-Pasadena Airport Auth. v. City of Burbank*,
16 136 F.3d 1360, 1364 (9th Cir. 1998)); *United States ex rel. Robinson Rancheria*
17 *Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) (courts “‘may
18 take notice of proceedings in other courts, both within and without the federal
19 judicial system, if those proceedings have a direct relation to matters at issue’”)
20 (quoting *St. Louis Baptist Temple, Inc. v. FDIC*, 605 F.2d 1169, 1172 (10th Cir.
21 1979)).

22 Judicial notice of materials from prior litigation is appropriate when
23 determining whether the result of prior litigation precludes a claim. *See, e.g.*,
24 *Reyn’s Pasta Bella, LLC*, 442 F.3d at 746 & n. 6 (taking judicial notice of briefs
25 and hearing transcript to identify the issues that had been litigated and settled in
26 prior litigation, for purposes of issue preclusion); *United States ex rel. Robinson*
27 *Rancheria Citizens Council*, 971 F.2d at 248 (taking judicial notice of state court
28 judgment in affirming dismissal of complaint based on *res judicata*).

1 Accordingly, UMC respectfully asks the Court to take judicial notice of the
2 Judgments and Orders identified above (but not the facts set forth therein) for the
3 purpose of determining the preclusive effect to be afforded to the Judgments of the
4 Chinese and Japanese courts.

5 Dated: July 25, 2016

RICHARD H. ZAITLEN
MICHAEL CHIBIB, P.C.
JEFFREY D. WEXLER
LORI LEVINE
PILLSBURY WINTHROP SHAW
PITTMAN LLP

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9 By: /s/ Jeffrey D. Wexler

10 Jeffrey D. Wexler
11 Attorneys for Plaintiff and Counterdefendant
12 UM CORPORATION and
13 Counterdefendants GOLDEN MEDIA
14 GROUP, INC. and TIGA
15 ENTERTAINMENT COMPANY, LTD.
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